

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

May 30 , 2002

**APPROVAL OF RESALE AGREEMENT
NEGOTIATED BY BELL SOUTH
TELECOMMUNICATIONS, INC. AND MAX-
TEL COMMUNICATIONS, INC. PURSUANT
TO SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 02-00343

ORDER APPROVING RESALE AGREEMENT

The *Petition for Approval of Resale Agreement Negotiated Between BellSouth Telecommunications, Inc. and Max-Tel Communications, Inc. Pursuant to the Telecommunications Act of 1996* came before the Tennessee Regulatory Authority (the "Authority") at the May 21, 2002 Authority Conference. The Agreement was filed on March 7, 2002 and came before the Authority pursuant to 47 U.S.C. § 252.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Agreement and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Agreement is not discriminatory to telecommunications service providers that are not parties thereto.

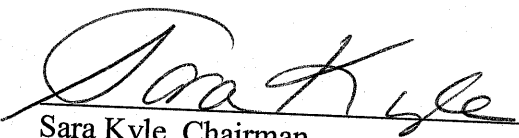
4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.²

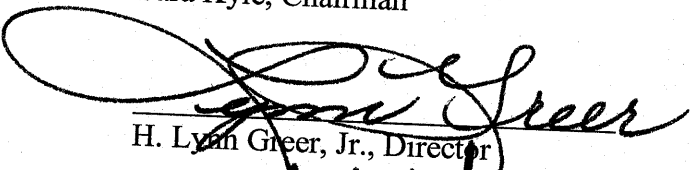
5) No person or entity has sought to intervene in this docket.

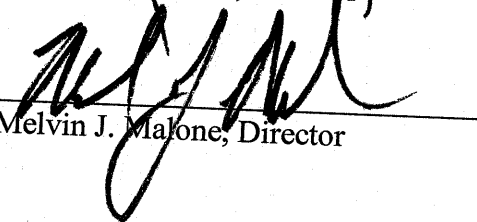
6) The Agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

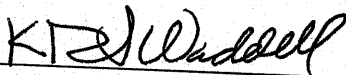
The Resale Agreement negotiated between BellSouth Telecommunications, Inc. and Max-Tel Communications, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

² The Authority has issued a request to BellSouth Telecommunications, Inc. requesting that it provide to the Authority a detailed filing explaining any provisions of the interconnection agreement that differ from previous Authority decisions. BellSouth Telecommunications, Inc. has not responded to this request.